REMARKS

In the Office Action mailed June 30, 2008, the claims were rejected. Withdrawal of the rejections and reconsideration and allowance of claims 1-9, 11-12, and 15-42 are respectfully requested in view of the following remarks.

Rejections Under 35 U.S.C. § 103

Claims 1-9, 10-29, 32, 34-37, 39, and 41-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sullivan (US 2001/0018665 A1) in view of Voltmer (US 2002/0143626 A1) in view of Jeuland (Managing Channel Profits). Claims 31, 33, 38, and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sullivan in view of Voltmer in view of Jeuland and in further view of Woolston (US 5,845,265). The rejections are respectfully traversed.

Independent claims 1, 15, and 36 recite that the seller of the purchased product is the owner of the product. The manufacturer of the product is not the seller and has no ownership interest. Yet, as recited in the claims, the manufacturer is distributed an incentive based on the purchase of the product in a transaction between the seller (who is the owner of the product) and a purchaser. Neither Sullivan, Voltmer nor Jeuland, alone or in any combination, discloses or suggests these limitations.

With respect to Sullivan, the Office action relies on paragraph [0021] of Sullivan for the proposition that Sullivan teaches a system that determines if a retailer sold a manufacturer's product and then executes payment from the retailer to the manufacturer. According to Sullivan, this payment is the unpaid price owed to the manufacturer by the retailer for the product that is sold through the retailer. Thus, this payment is not an incentive (as that term is used in the present application (*see, e.g.*, Specification at p. 7, ll. 8-10)), but is simply the agreed-upon compensation owed to the manufacturer by the retailer pursuant to the terms of a *consignment*-type agreement. (Sullivan, para. [0021]). Further, because of the consignment-type relationship, the product is sold *through* the retailer and not by a seller who is the owner of the product, as set forth in the claims. Accordingly, limitations required in each of claims 1, 15 and 36 are missing from Sullivan.

Voltmer also is deficient with respect to the distribution of an incentive to a manufacturer based on a transaction between a purchaser and a seller who is the owner of a the sold product. Voltmer discloses a network of consumers, retailers (and their employees), manufacturers, third party providers, etc. In Voltmer's system, rewards based on the purchase of a product may be used across the various tiers in the network. However, the rewards disclosed in Voltmer are rewards that are provided *from* the manufacturer to the consumers, employees, retailers, etc. or from the retailers to their employees. (Voltmer, paras. [0043, 0044]). In other words, rewards are not distributed to the manufacturer, as required by the claims. Thus, Voltmer, like Sullivan, also does not disclose a system in which an incentive is distributed to a manufacturer of a product based on a transaction between a purchaser and a seller who is the owner, but not the manufacturer, of the purchased product.

Jeuland also does not disclose distribution of an incentive to a manufacturer of a product based on a transaction between a purchaser and a seller who is the owner, but not the manufacturer, of the purchased product. Jeuland is directed toward techniques for coordinating the decisions of participants in a distribution channel such that the members' profits may be maximized. One of these techniques is a profit sharing mechanism by which the manufacturer and retailer each receives a fraction of channel profits. With respect to this cooperation mechanism, Jeuland further discloses that "realistic" mechanisms for implementing profit sharing are quantity discounts provided *from* the manufacturer to the retailer and marketing procedures, such as "promotional allowances, cooperative advertising, manufacturer technical service support, manufacturer supplied promotional materials, retail displays, credit terms, consumer advertising, manufacturer training of retail salespeople, full-line supplying, price rebates and other promotional techniques." (Jeuland, pp. 253, 257). Notably, quantity discounts are the only type of "realistic" profit sharing mechanism disclosed by Jeuland. Moreover, the only techniques disclosed by Jeuland for implementing quantity discounts are techniques by which either the *retailer* is provided with discounts or other non-monetary compensation (e.g., training, allowances, promotional materials) or the manufacturer and retailer somehow cooperate to promote sales of the product (e.g., cooperative advertising). Jeuland does not teach that

profit sharing can be implemented by *distributing* an incentive (or even a portion of the profits) *to* the manufacturer based on a transaction between a purchaser and the retailer/owner of the product, as required by the claims. Accordingly, Jeuland does not compensate for the deficiencies of Sullivan and Voltmer.

In view of the foregoing, it is respectfully submitted that the hypothetical combination of Sullivan with Voltmer and Jeuland does not disclose all of the elements recited in any of independent claims 1, 15, and 36. Thus, withdrawal of the rejection of independent claims 1, 15, and 36 under 35 U.S.C. § 103(a) is respectfully requested.

Independent claim 29 recites a computer system for tracking transactions transferring the ownership of goods between parties that are not themselves the manufacturer of the goods, calculating incentives to be paid to the manufacturer based on those transactions, and distributing incentives to the manufacturer. As discussed above, Sullivan does not teach or disclose a system in which incentives are distributed to the manufacturer when the manufacturer is not the owner of the transferred goods. Neither Voltmer nor Jeuland compensates for Sullivan's deficiencies Accordingly, withdrawal of the rejection of claim 29 under 35 U.S.C. § 103(a) is requested.

With respect to the rejection of claims 31, 33, 38 and 40 in view of Sullivan in combination with Voltmer, Jeuland and Woolston, claims 31 and 33 depend from independent claim 29 and claims 38 and 40 depend from independent claim 36. The patentability of independent claims 29 and 36 in view of Sullivan, Voltmer and Jeuland have been discussed above. Woolston discloses only the situation in which goods are sold in a consignment-type situation. Thus, Woolston also does not teach or suggest distributing an incentive to a manufacturer when the manufacturer is not the owner of the purchased product, as required by the claims. Because of this missing element, withdrawal of the rejection of the dependent claims 31, 33, 38, and 40 under 35 U.S.C. § 103(a) is respectfully requested.

The claims which depend from claims 1, 15, 29, and 36 are patentable over Sullivan in view of Voltmer and Jeuland and/or Woolston for at least the same reasons discussed above with respect to each of their base claims. Accordingly, withdrawal of the rejection of the dependent claims is respectfully requested for at least those reasons.

Conclusion

For the reasons specified above, claims 1-9, 11-12, and 15-42 are believed to be allowable over the cited references and in condition for allowance. Accordingly, the examiner is respectfully requested to issue a Notice of Allowance. Should the examiner feel that a telephonic interview would speed this application towards issuance, the examiner is requested to call the undersigned attorney at the telephone number provided below.

The Commissioner is authorized to charge any additional fees, including extension of time fees, or credit any overpayment to Deposit Account No. 20-1504 (BLU.0002US).

Respectfully submitted,

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